

Delta Plan Amendments: Final Program EIR Certification and Plan Amendment Adoption

Jeff Henderson
Erin Mullin
Ryan Stanbra
Martina Koller
Andrew Tauriainen
Delta Stewardship Council

Kari Shively
Stantec

Ellen Garber
Shute, Mihaly, and Weinberger

April 26, 2018



Overview

- Purpose and scope of amendments
 - *Delta Levees Investment and Risk Reduction Strategy (DLIS)*
 - *Conveyance, Storage, and Operations of Both (CSO)*
 - *Performance Measures (PMs)*
- Program Environmental Impact Report (PEIR)
- Staff recommendation to Council
 - *Receive staff report*
 - *Receive public comments*
 - *After deliberation, adopt Resolution*

Purpose and Scope

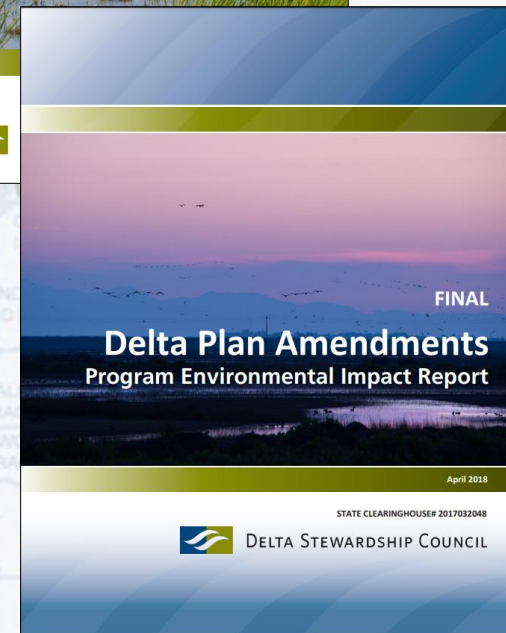
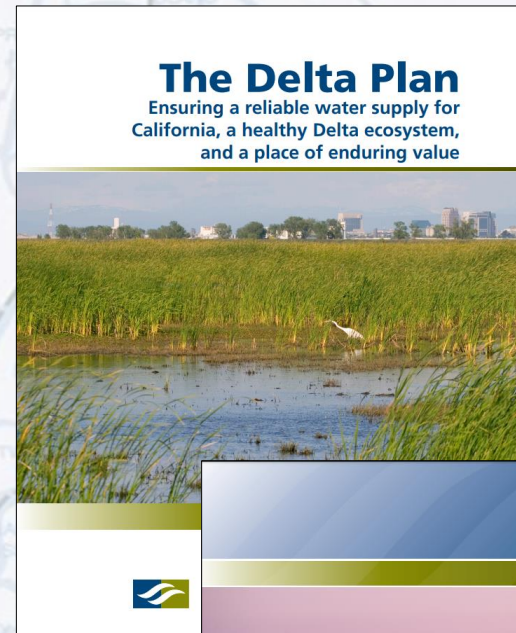
- Delta Plan first adopted in 2013, and amended twice to date
- Per statute, Council may revise the Plan as it deems appropriate
- Project revises DLIS, CSO, and PM components
 - *Changed circumstances and conditions in the Delta*
 - *Prior commitments made in 2013 Delta Plan*
- Separate from future Ecosystem Amendment, which is in the planning stages, and upcoming 5-Year Delta Plan Review

Amendments Process

- Following extensive outreach, Council approved the project description for the amendments in June 2017 for purposes of environmental review
 - *DLIS description assumes RR P1 could be either a recommendation or a regulatory policy*
- Plan amendments are a project under the California Environmental Quality Act (CEQA)
- Council has prepared a Program Environmental Impact Report (PEIR)
 - *Provides public disclosure of potential significant environmental effects*
 - *Fosters informed decision-making*

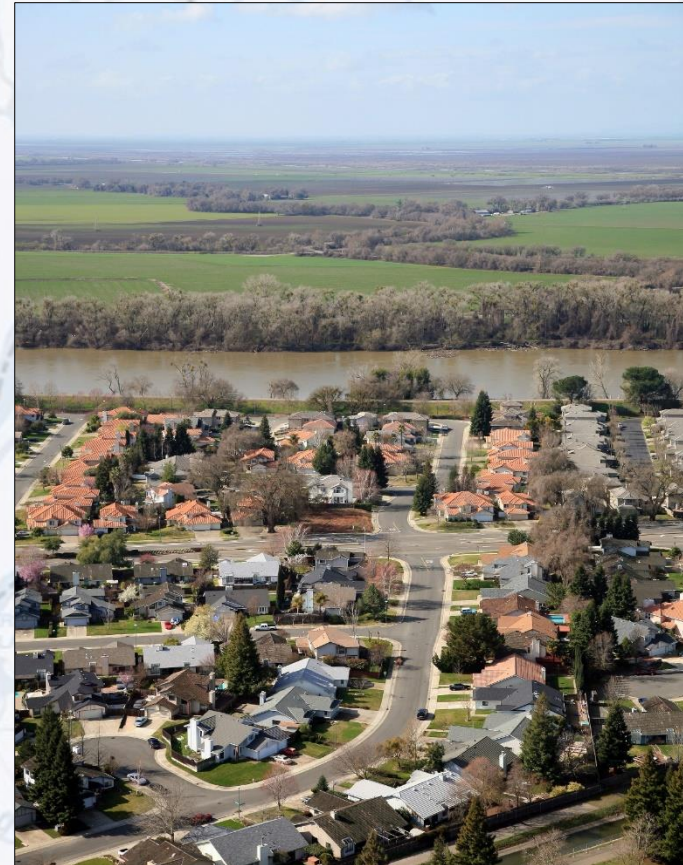
Delta Plan Amendments

- Prior to adopting Delta Plan amendments, Council must certify the PEIR
- Staff report provides overview of each amendment
 - *General content and process*
 - *Modifications since June 2017*
 - *Staff recommendation regarding Policy RR P1*



DLIS Amendment

- Delta Plan Policy RR P1
 - *Interim regulatory policy*
- Delta Levees Improvement and Risk Reduction Strategy (DLIS)
 - *Objectives*
 - *Principles*
 - *Outreach*



DLIS Amendment

- Prior Council consideration of DLIS Amendment
 - *March 2017 – Approved Chapter 7 amendment content as project description for PEIR*
 - *June 2017 – Approved DLIS MOU concept and working group with RR P1 as either a recommendation or a regulatory policy*
 - *March 2018 – Received update on DLIS MOU working group progress*



DLIS MOU Working Group

- Weekly meetings began November 2017
- Accomplishments to date:
 - *Jointly manage and maintain the DLIS Tool*
 - *Incorporate the current and future prioritization into the Delta Levees Special Projects project selection process*
 - *A framework for reporting and tracking agency accomplishments and activities*
 - *Progress toward the development of an Ability-to-Pay methodology*

DLIS Policy RR P1 Option 1

Adopt the DLIS Prioritization as a Recommendation:

- Opportunity:
 - *Ease in updating*
- Challenges:
 - *Relies on the willing participation of signatories to the MOU*
 - *Reduction in regulatory authority over Delta flood investments*

DLIS Policy RR P1 Option 2

Update and Adopt as a Regulation Incorporating the DLIS Prioritization:

- Opportunities:
 - *Legally enforceable*
 - *Provides greater accountability for compliance with DLIS Prioritization*
- Challenge:
 - *Future revisions to the prioritization could require both a Delta Plan Amendment and a regulatory amendment, along with necessary environmental review*

DLIS Policy RR P1

Staff Recommendation:

- Option 2
 - *Update and Adopt Policy RR P1 as a Regulation Incorporating the DLIS Prioritization*



Conveyance, Storage, and the Operation of Both (CSO)

- WR R12 recommended that State and federal agencies complete the Bay Delta Conservation Plan (BDCP) by December 2014
- Appendix A of the Delta Plan, provides in part that, *“should the BDCP process not be completed by January 1, 2016, the Council intends to revisit the issue of conveyance to determine how to facilitate improved conveyance facilities without the BDCP.”*
- In 2015, State announced it would not complete BDCP as a Natural Community Conservation Plan and Habitat Conservation Plan, instead pursuing California WaterFix and a parallel effort California EcoRestore

CSO Development Process

- November 2015 – Problem statement and *19 Principles for Water Conveyance in the Delta, Storage Systems, and for the Operation of Both to Achieve the Coequal Goals*
- 2016 – Council discussed and provided guidance and direction to staff on amendment scope and content
- February 2017 – Initial discussion draft CSO Amendment
- March 2017 – Three public workshops
- April and May 2017 – Revised discussion drafts
- June 2017 – Council approved draft CSO Amendment for use as the project description for purposes of CEQA

CSO Amendment

Replaces Delta Plan WR R12 *Complete Bay Delta Conservation Plan* with the following recommendations:

- WR R12a Promote Options for New and Improved Infrastructure Related to Water Conveyance
- WR R12b Evaluate, Design, and Implement New or Improved Conveyance or Diversion Facilities in the Delta
- WR R12c Improve or Modify Through-Delta Conveyance
- WR R12d Promote Options for New or Expanded Water Storage
- WR R12e Design, Construct and Implement New or Expanded Surface Water Storage
- WR R12f Implement New or Expanded Groundwater Storage
- WR R12g Promote Options for Operations of Storage and Conveyance Facilities
- WR R12h Operate Delta Water Management Facilities Using Adaptive Management Principles
- WR R12i Update the Bay-Delta Plan and Consider Drought
- WR R12j Operate New or Improved Conveyance Facilities Outside of the Delta
- WR R12k Promote Water Operations Monitoring, Data Management, and Data Transparency

Changes since June 2017

- Typographical corrections
- Additional bibliographic citations
- Edits for stronger or lesser emphasis, such as:
 - Page 5, lines 22 and 23, “...adaptive management consistent with the framework outlined in the Delta Plan is ~~critical~~ *essential* for all actions...”
 - Page 8, line 8, “...species have declined ~~drastically~~ since the construction of State and federal water systems...”
 - Page 11, lines 13 and 14, “...urban conservation is likely to *substantially* offset *some* demand increases...” Without new or expanded storage, current conflicts between the use of water for ecosystem management (flow and temperature), water quality (for in-Delta use and exporters), and supply reliability ~~could will only~~ intensify.”

Changes since June 2017

- Edits for clarification, such as
 - Page 7 lines 27 and 28, “Recent events, *including damages sustained at the Oroville Dam flood control spillway and at the Clifton Court Forebay intake structure during 2017...*”
 - Page 13, lines 17 through 19, “...diversification of water supply portfolios at the regional and local levels, ~~which will provide greater~~ *can improve overall supply reliability through providing alternative sources of supply...*”
 - Page 18, lines 26 and 27, “~~New~~ *More natural* flow patterns linked with *connections to improved habitat* ~~restoration~~ areas can create opportunities to re-establish important ecological processes...”
- Non-substantive edit from PEIR comments to amended Chapter 3, Policies and Recommendations section, Improved Conveyance and Expand Storage, Problem Statement

Performance Measures

- Appendix E of the Delta Plan
- Continued refinements to output and outcome measures
- Performance metric, baseline, targets and dates
- Data sheets

Performance Measures

Responses to PEIR comments:

- PM 4.2 Sub-measure
 - *Peak Flows*
- PM 4.2 Sub-measure
 - *More Gradual Recession Flows at the End of Wet Season*
 - *Metric and target location details*
- PM 6.9 - *Measurable Toxicity*
 - *Clarifying language to the target*

Performance Measures

Responses to PEIR comments – Data sheet edits:

- Data sheet PM 3.4: *Water Supply Reliability*
- Data sheet PM 4.2 Sub-measure: *In-Delta Flows*
- Data sheet PM 4.2 Sub-measure: *Restoring More Natural Functional Flow Patterns in the Yolo Bypass*
- Data sheet PM 6.2: *Salinity*
- Data sheet PM 6.4: *Protect Groundwater Beneficial Use*
- Data sheet PM 6.7: *Critical Pesticides*
- Data sheet PM 6.9: *Measurable Toxicity*
- Data sheet PM 6.10: *Harmful Algal Blooms*

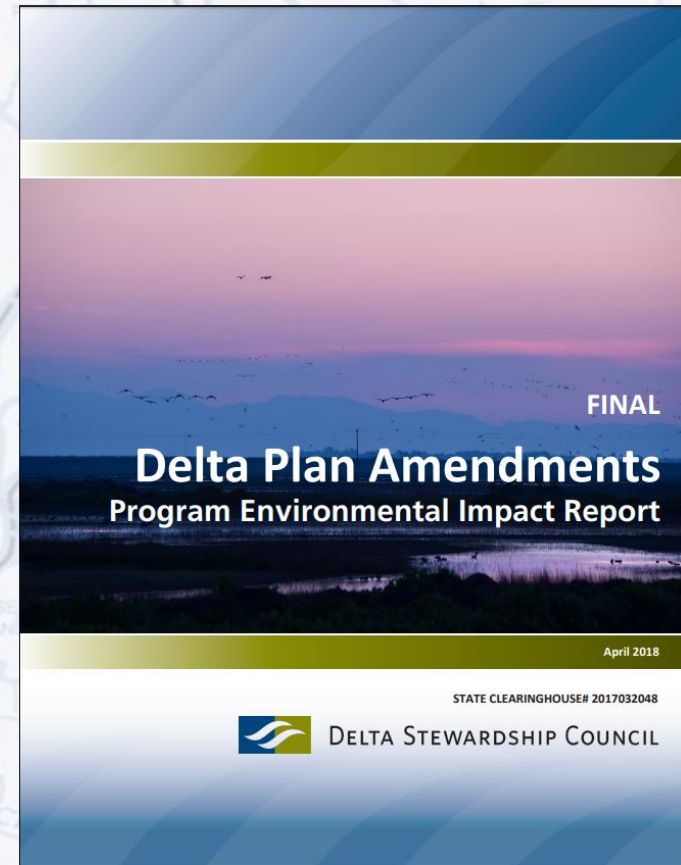
Performance Measures Legal Clarifications

PMs 3.1, 3.2, 3.4 and corresponding data sheets:

- Clarify that the performance measures apply to urban water suppliers that are within the Delta or those relying on water from the Delta watershed
- Delete references to “water contractors”, “contractors” and “diverters” with respect to UWMPs, as those plans are prepared by “water suppliers”, a term defined in the Water Code
- Removes potential confusion

Environmental Review Process

- PEIR prepared to comply with CEQA
- Council published Notice of Preparation of an EIR on March 16, 2017 and held a scoping meeting on March 24, 2017
- Two parts to the PEIR: Draft PEIR and Final PEIR



Draft PEIR

- Describes proposed Delta Plan Amendments and project objectives
- Describes potential activities and projects by other agencies in response to the proposed Amendments
- Analyzes and identifies impacts of these potential activities and projects
 - *Significant and unavoidable impact*
 - *Significant impact that can be mitigated*
 - *Less than significant impact*
 - *No impact*
- Identifies mitigation measures and considers alternatives to reduce significant impacts

Draft PEIR Mitigation Measures

- For covered actions, other public agencies are required to implement all applicable mitigation measures or equally effective measures
 - *2013 mitigation measures were adopted and incorporated into the Delta Plan and apply to all covered actions*
 - *New Mitigation Measure 5.2-1 identified in PEIR (glare from non-specular transmission and distribution lines)*
- Staff recommends the Council revise Delta Plan Policy GP 1(b)(2) to make new and future adopted mitigation measures enforceable
 - *Changes identified on page 15 of staff report*

Draft PEIR

Alternatives to the Delta Plan Amendments:

- No Project – Existing Delta Plan
- Alternative 1 – Reduced Reliance on Delta Emphasis
- Alternative 2 – Delta Wetland Restoration Emphasis
- Alternative 3 – Through-Delta Conveyance Emphasis
- Additional alternatives considered but rejected for further analysis
 - *Refer to Draft PEIR Section 9.2.3*

Draft PEIR

- Draft PEIR and Notice of Availability/Notice of Completion published November 1, 2017
 - *3,600+ individuals, agencies, and organizations notified*
- 82-day public comment period from November 1, 2017 to January 22, 2018
 - *Open houses in Stockton on November 1, 2017 and Sacramento on November 2, 2017*
 - *Public meeting to receive comments in West Sacramento on December 14, 2017*
- 535 comment letters and e-mails received
 - *Includes 492 form letters*

Responses to Comments

- Council staff prepared written responses to each comment received on the Draft PEIR that raises an environmental issue
- Master responses address common themes and issues repeated in the comments, including:
 - *CSO Amendment issues*
 - *DLIS Amendment issues*
 - *PM Amendment issues*
 - *Approach to the environmental analysis*
 - *Alternatives evaluated in the Draft PEIR*
 - *Authority of the Council and legal status of the Delta Plan*

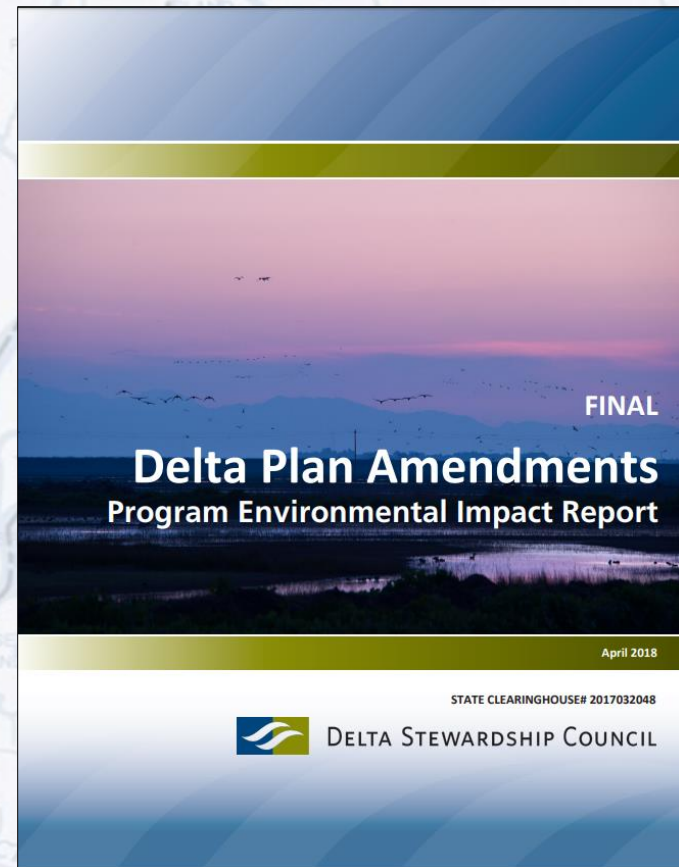
Final PEIR

- Final PEIR contents include
 - *Introduction*
 - *Revisions to Draft PEIR*
 - *Written responses to comments on Draft PEIR*
 - *Additional references new to the Final PEIR*
- Final PEIR released to public and responses to comments sent to commenting public agencies on April 16, 2018

PEIR Certification

Prior to project approval,
Council must certify that:

- PEIR has been completed in compliance with CEQA
- Council has reviewed and considered the information in the PEIR
- PEIR reflects the independent judgment and analysis of the Council



Approval Process

To approve the Delta Plan Amendments, Council must:

- Adopt the CEQA Findings and Statement of Overriding Considerations explaining why the benefits of the project outweigh significant unavoidable environmental effects
- Adopt and incorporate into the Delta Plan Amendments the new mitigation measure identified in the PEIR
- Adopt the Mitigation Monitoring and Reporting Program to ensure implementation of mitigation measures

Staff Recommended Action

Adopt the proposed Resolution:

- Certify **Final Delta Plan Amendments FEIR**
- Adopt **Findings and Statement of Overriding Considerations**
- Adopt and incorporate **Mitigation Measure 5.2-1** into Delta Plan
- Adopt **Mitigation Monitoring and Reporting Program**
- Adopt Delta Plan Amendments to **Chapter 7 (DLIS)**
 - *Staff recommends adopting **Policy RR P1 as a regulation***
- Adopt Delta Plan Amendments to **Chapter 3 (CSO)**
- Adopt Delta Plan Amendments to **Appendix E (PMs)**
- Directs Council staff to **initiate rulemaking** including modifying **Policy GP 1(b)(2)**
- Directs Executive Officer to correct errata, to complete identified non-substantive changes, and to make changes required by Office of Administrative Law to complete rulemaking

Questions?

